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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/812,360

03/30/2004

Katsunari Morishima

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12/22/2006

BANNER & WITCOFF

1001 G STREET N W

SUITE 1100

WASHINGTON, DC 20001

EXAMINER

MITCHELL, KATHERINE W

ART UNIT

PAPER NUMBER

3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/22/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/812,360	Applicant(s) MORISHIMA ET AL.	
	Examiner Katherine W. Mitchell	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 7-11, 13, 15, 16 and 21 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 6 and 17-20, 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

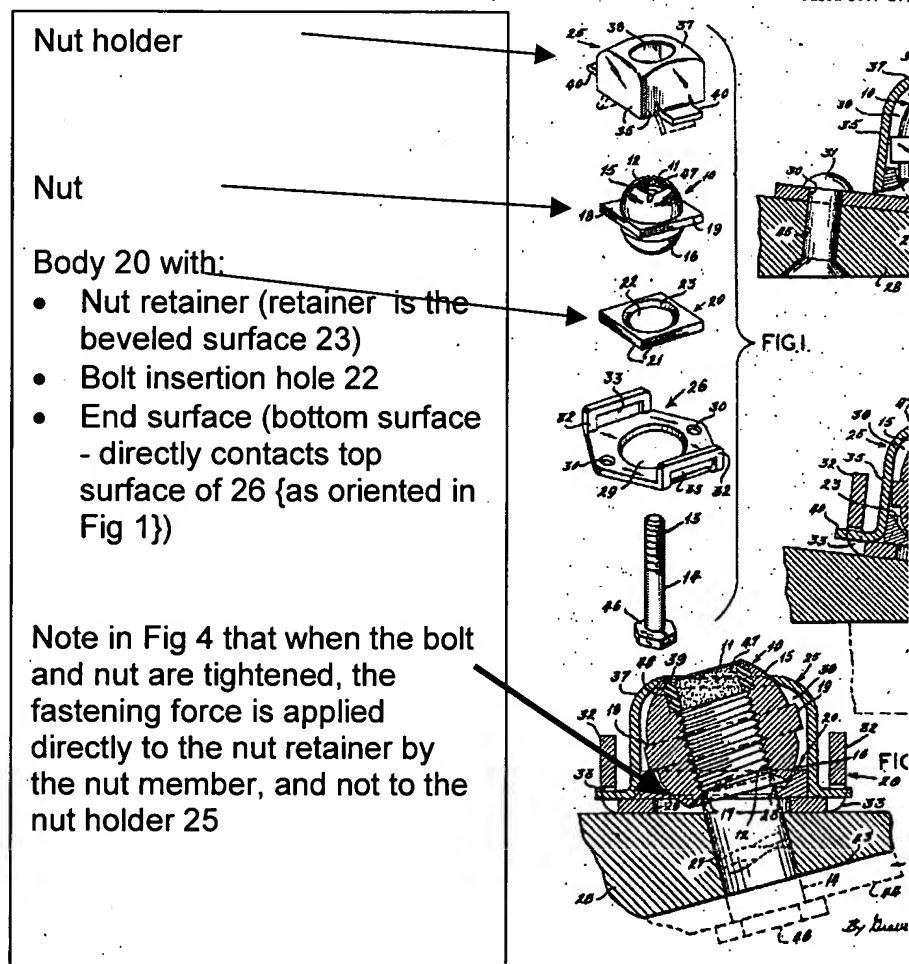
DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2,4,8-10, 13,15-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Schaaf USP 2820499.



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Re claims 1 and 15: As best understood by examiner, Schaaf teaches an apparatus comprising a body, a nut holder, and a nut member, wherein the body comprises a nut retainer, an end surface, and a bolt insertion hole. The nut member is retained and supported in the inclined direction continuous with the bolt hole (Fig 4). Note that "predetermined" is met by the angle of the hole in the structure 28 --with the assembly of Fig 1 mounted on structure 28, the angle of the nut is predetermined - the nut bore must coaxially line up with the bore in 28. While it is true that the nut itself may need to be manually rotated to thus line up, once this is done, the holder and body with nut retainer are capable of securely holding the nut in this predetermined direction before the bolt is fastened. In an apparatus claim, the structure need only be capable of meeting the intended use or function, which this clearly is. When the bolt and nut are tightened, the fastening force will draw the nut toward the bolthead, which would apply the force to the nut retainer (beveled surface of 26, as shown in Fig 4)

Re claim 2 and 8-10, 16: The nut holder has side support surfaces (the inner surfaces of the sidewalls indirectly support the nut, as they support the body/ nut retainer), and an end surface support 37 and engaging portion as described as shown in Fig 4 and 1.

Re claim 4: The end surface support 37 has a hole 38 in communication with threaded nut hole - see Fig 1 and 4.

Re claim 13: The apparatus is capable of coupling a lateral frame member (which could be as represented by "28" in Fig 4) to the positioning section of the end surface of the body 20. It has been held that the functional "whereby" {and "wherein" --

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examiner} statement does not define any structure and accordingly cannot serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7,11, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaaf.

Re claims 7,11,and 21: As discussed above, Schaaf or Eaton teaches all the limitations except the material of construction as resin or aluminum. It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have selected resin or aluminum as the material of construction, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of engineering choice from known alternatives. *In re Leshin*, 125 USPQ 416. The method of forming the device (i.e., by die casting) is not germane to the issue of patentability of the device itself, as long as it is capable of being made by such a method, which it is. Therefore, this limitation has not been given patentable weight.

Response to Arguments

5. Applicant's arguments filed 11/1/2006 in view of the amendment are persuasive with respect to Eaton, and this rejection is withdrawn. All 112 rejections are withdrawn.

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However, the arguments with respect to claims 1-2,4,8-10, 13,15-16 rejected by Schaff are unpersuasive, and moot in view of the new interpretation of Schaff. Note that now "25" is the nut holder, "20" is the body.

Examiner notes that Schaff is not capable of having the nut holder mounted from below the body, and does not show the nut holder mounted below the body.

Allowable Subject Matter

6. Claims 3,5,6,17-20,22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

NOTE that claim 22 depends on claim 5, and it is for that reason that it is allowed.

Drawings

7. Note that examiner is accepting the drawings, but strongly suggests changing Fig 6 to have 283, 283a, and 283b be labeled above the figure and have lines leading down, so the lines do not get lost in the nut crosshatching.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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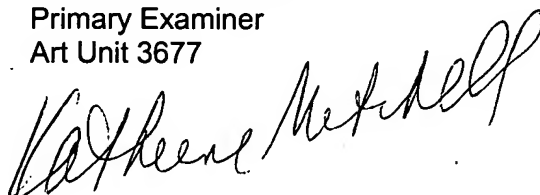
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 571-272-7069. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Katherine W Mitchell
Primary Examiner
Art Unit 3677



Kwm
12/15/2006